

**MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS**

December 12, 2013

- I. **CALL TO ORDER** - The meeting was called to order at 1:30 p.m. in the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky.

Planning Commission members present - Mike Owens, Chair; Will Berkley; Mike Cravens; David Drake (arrived at 1:31 PM); Karen Mundy; Carolyn Plumlee; Bill Wilson; Patrick Brewer and Frank Penn. Carla Blanton and Eunice Beatty were absent.

Planning staff members present - Chris King, Director; Bill Sallee; Barbara Rackers; Tom Martin; David Jarman; Kelly Hunter; Cheryl Gallt; Denice Bullock and Jimmy Emmons. Other staff members in attendance were: Hillard Newman, Division of Engineering; Lieutenant Greg Lengal, Division of Fire and Emergency Services; Tim Queary, Department of Environmental Policy; Casey Kaucher, Division of Traffic Engineering and Tracy Jones, Department of Law.

- II. **APPROVAL OF MINUTES** – The Chair reminded the Commission members that the minutes of the November 21, 2013, meeting was previously emailed to the Commission for their review; and if there were no changes, those minutes were ready to be considered at that time.

Action - A motion was made by Mr. Cravens, seconded by Mr. Brewer and carried 8-0 (Drake, Blanton and Beatty absent) to approve the minutes of the November 21, 2013, meetings.

Note: Mr. Drake arrived at this time.

- III. **POSTPONEMENTS OR WITHDRAWALS** – The Chair asked for requests for postponement and withdrawal to be considered at this time.

- a. DP 2013-90: SPRINGDALE SUBDIVISION, UNIT 2, BLOCK A, LOTS 1, 2 & 3 (1/5/14)* - located at 659 Mitchell Avenue. (Barrett Partners)

Note: The Planning Commission postponed this plan at their November 14, 2013, meeting.

The Subdivision Committee Recommended: Postponement. There are concerns with the proposed lotting and the 30' building line.

Should this plan be approved, the following conditions should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Provided the Planning Commission makes a finding on the use of an access easement in accordance with Article 6-8(m) of the Land Subdivision Regulations.
11. Discuss required information for private open space.
12. Discuss proposed lotting.
13. Discuss resolution of building conflicts with platted 30' building line.

Representation – Bruce Simpson, attorney, was present representing the applicant. He said that there were issues with the location of a dumpster or herbies on this site, and they would like to request postponement of this item. He then said that he had sent notices to the neighbors on Mitchell Avenue, who expressed concerns with this development plan, advising them that this item would be postponed until the January 9, 2014, meeting. He also said that he had spoken to one of the Neighborhood Association's person just prior to this meeting, and explained to that officer that they would certainly meet with the neighbors to hear their concerns and would factor those concerns into their revised development plan before it comes back to the Commission in January.

Mr. Simpson said that he mistakenly told the neighbors that the next Planning Commission meeting was January 9, 2014, but it is actually January 16, 2014. He said that, unfortunately, he will not be in Lexington on January 16th and asked if this item could be postponed until the January 31, 2014 meeting. He added that this would give sufficient time to meet with the neighbors and address their concerns. Mr. King clarified that the January meeting will be held on the 30th.

* - Denotes date by which Commission must either approve or disapprove request.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. Ms. Tee Bergman, residing at 640 Mitchell Avenue, and also the secretary of the Mitchell Avenue Neighborhood Association, was present. She said that she is not opposing the postponement request, but she would like some reassurance that the neighborhood issues would be taken into consideration and addressed. She understands that the Planning Commission does not want to play referee in this type of situation; and the neighbors also agree that they should not; but they want their concerns addressed.

Ms. Bergman said that, each time this proposal has been presented to the Commission, she has been present to speak on it. However, she will be out of town on January 31st and asked if this item could be postponed to the February meeting date. The Chair said that Mr. King had indicated that that meeting will be held on January 30th and asked if Ms. Bergman would be in town to attend the meeting. Ms. Bergman said that she would not return until February 4th.

Planning Commission Question – The Chair asked Mr. Simpson if he would be agreeable to this item being postponed to a February meeting. Mr. Simpson said that that would be acceptable. Mr. King verified that the first meeting in February is on the 13th.

Action - A motion was made by Mr. Penn, seconded by Ms. Mundy and carried 9-0 (Blanton and Beatty absent) to postpone DP 2013- 90: SPRINGDALE SUBDIVISION, UNIT 2, BLOCK A, LOTS 1, 2 & 3 to the February 13, 2014, Planning Commission meeting.

- b. DP 2013-96: HARVEY PROPERTY (2/2/14)* - located at 4500, 4524 and a portion of 4574 Old Schoolhouse Lane.
(Council District 10) **(EA Partners)**

The Subdivision Committee Recommended: Postponement. There were some questions regarding access to the greenway, location of the pre-Columbian burial ground and adequate spring protection.

Should this plan be approved, the following requirements should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
12. Denote lot information per Subdivision Regulations for single family area.
13. Clarify extent of street construction and tree protection area in and near floodplain.
14. Discuss proposed tree protection area for Bur Oak.
15. Discuss location of pre-settlement cultural site.
16. Discuss access to greenway area.
17. Discuss improvements needed to Old Schoolhouse Lane, including sidewalk.
18. Discuss incorporation of spring into greenway or other protection measures, including maintenance.
19. Discuss requested waivers, and the height of proposed retaining walls.

Representation – Nick Nicholson, attorney, was present representing the applicant, and requested postponement of DP 2013-96: HARVEY PROPERTY to the January 16, 2014, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Ms. Plumlee, seconded by Ms. Mundy and carried 9-0 (Blanton and Beatty absent) to postpone DP 2013-96: HARVEY PROPERTY to the January 16, 2014, Planning Commission meeting.

- c. DP 2013-74: GLEN CREEK (DOVE CREEK) (AMD) (12/12/13)* - located at 1145 & 1156 Appian Crossing Way.
(Council District 8) **(Rob Sims)**

Note: The Planning Commission postponed this plan at their September 12, 2013; October 10, 2013 and November 14, 2013, meetings. The purpose of this amendment is to delete townhouses and add four apartment buildings.

* - Denotes date by which Commission must either approve or disapprove request.

The Subdivision Committee Recommended: **Postponement**. There are concerns with the proposed circulation and access, given the substandard condition of Jones Trail.

Should this plan be approved, the following conditions should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
12. Addition of name and address of developer in title block.
13. Denote record plat designation.
14. Dimension proposed driveway/access point to Jones Trail.
15. Dimension proposed walkways.
16. Addition of street cross-section for Jones Trail.
17. Dimension apartment buildings and clubhouse.
18. Denote height of new buildings in feet.
19. Complete site statistics for buildable and floor area.
20. Remove from chart "areas of individual lots" that are being deleted from plan.
21. Delete miscellaneous lot information.
22. Delete note #13 (redundant).
23. Resolve timing of water line easement release to remove conflict with proposed building.
24. Delete Unit 3 typical townhouse information.
25. Discuss improvements to Jones Trail.
26. Discuss note #16.
27. Discuss possible need for a tree preservation area along Jones Trail.
28. Discuss continued use of pedestrian/emergency vehicle access as a vehicular access by area residents.
29. Discuss landscape buffer adjacent to parking and compactor along northern property line.
30. Discuss apartment access proposed through townhouse (H.O.A.) access easements.

Staff Comments – Mr. Martin said that the staff had received an email correspondence from the applicant, requesting to indefinitely postpone DP 2013-74: GLEN CREEK (DOVE CREEK) (AMD).

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Mr. Brewer, seconded by Mr. Wilson and carried 9-0 (Blanton and Beatty absent) to indefinitely postpone DP 2013-74: GLEN CREEK (DOVE CREEK) (AMD).

Note: The Chair asked that the Commission deviate from the normal procedure and allow the year end presentation for the Annual Report from the Purchase of Development Rights to be heard at this time.

III. **COMMISSION ITEM** – The Chair will announce that any item a Commission member would like to present will be heard at this time.

A. **ANNUAL REPORT FROM PURCHASE OF DEVELOPMENT RIGHTS PROGRAM** – The Commission will hear from Ms. Beth Overman, who will present the required Annual Report from the Rural Land Management Board.

Ms. Overman distributed the necessary information for the annual PDR report to the Commission members, as required by the Zoning Ordinance. She said that the PDR program currently has 28,128 acres participating in this program, which is 56.25% of the goal of 50,000 acres by 2020. She then said that that, in reviewing the annual report, there are 242 total farms participating in the PDR Program. Out of the 242 farms, there are 133 equine farms, 96 general agriculture farms, 13 other types of farms and 39 donated conservation easements.

Ms. Overman explained that, for the last fiscal year 2013, there were five easements that were purchased, one conservation easement that was donated; and one that was withdrawn; and for the current fiscal year 2014, there are six conservation easements that have so far been purchased and the program is still in acquisition mode. One application has been withdrawn. She said that the for the 2015 fiscal year, they currently have 38 pending applications, totaling over 2,400 acres.

Ms. Overman directed the Commission's attention to the schematic of Fayette County, and noted that the areas that are under contract to close or have been acquired through either purchase or donations.

Planning Commission Questions – Mr. Penn asked, given the city's current rate of funding, what the estimation is regarding as to how many applications would be accepted. Ms. Overman said that if the same level of funding was available, they could obtain between eight and ten farms. Mr. Penn then asked if that would number would depend on the size of the farm, to which Ms. Overman replied yes.

- V. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, December 5, 2013, at 8:30 a.m. The meeting was attended by Commission members: Frank Penn, Carolyn Plumlee, Eunice Beatty and Karen Mundy. Committee members in attendance were: Hillard Newman, Division of Engineering; and Casey Kaucher, Division of Traffic Engineering. Staff members in attendance were: Bill Sallee, Tom Martin, Cheryl Gallt, Traci Wade, Dave Jarman, Kelly Hunter and Denice Bullock, as well as Lieutenant Greg Lengal, Division of Fire & Emergency Services and Tracy Jones, Department of Law. The Committee made recommendations on plans as noted.

General Notes

The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.

1. *All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.*
2. *All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.*

- A. **CONSENT AGENDA - NO DISCUSSION ITEMS** – Following requests for postponement or withdrawal, items requiring no discussion will be considered.

Criteria:

- (1) the Subdivision Committee recommendation is for approval, as listed on this agenda; and
- (2) the Petitioner is in agreement with the Subdivision Committee recommendation and the conditions listed on the agenda; and
- (3) no discussion of the item is desired by the Commission; and
- (4) no person present at this meeting objects to the Commission acting on the matter without discussion; and
- (5) the matter does not involve a waiver of the Land Subdivision Regulations.

Requests can be made to remove items from the Consent Agenda:

- (1) due to prior postponements and withdrawals,
- (2) from the Planning Commission,
- (3) from the audience, and
- (4) from Petitioners and their representatives.

At this time, the Chair requested that the Consent Agenda items be reviewed. Mr. Sallee identified the following items appearing on the Consent Agenda, and oriented the Commission to the location of these items on the regular Meeting Agenda. He noted that the Subdivision Committee had recommended conditional approval of these items. (A copy of the Consent Agenda is attached as an appendix to these minutes).

- a. **PLAN 2013-117F: DAVID TUCKER, SR., ANN TUCKER & DAVID TUCKER, JR. (1/5/14)*** - located at 1031 North Cleveland Road. (Council District 12) **(Abacus Engineering & Land Surveying)**

Note: The Planning Commission postponed this plan at its November 14, 2013, meeting. This plan requires the posting of a sign and an affidavit of such. The purpose of this plan is to subdivide one 141.43-acre tract into a 41.43-acre tract and a 100.00-acre tract in the Agricultural Rural (A-R) zone.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers, and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s).
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Clarify the 25' building setback from the floodplain and 300' setback on property.
9. Add or clarify the proposed access to both lots from N. Cleveland Road.

- b. **PLAN 2013-124F: BLACKFORD PROPERTY, PHASE I, UNIT 5-C (2/2/14)*** - located at 3105 Blackford Parkway (a portion of). (Council District 12) **(EA Partners)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.

* - Denotes date by which Commission must either approve or disapprove request.

3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Greenspace Planner's approval of the treatment of greenways and greenspace.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
9. Denote flood protection elevations for all affected lots.
10. Denote floodplain elevation on face of plan.
11. Addition of exaction information to the approval of the Division of Planning.

- c. PLAN 2013-125F: BLACKFORD PROPERTY, PHASE I, UNIT 5-B (2/2/14)* - located at 3105 Blackford Parkway (a portion of). (Council District 12) **(EA Partners)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
8. Addition of exaction information to the approval of the Division of Planning.

- d. PLAN 2013-127F: TUSCANY, UNIT 3-A (2/2/14)* - located on Old Rosebud Road. (Council District 6) **(EA Partners)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
8. Denote that there will be only one single family unit per lot.

- e. PLAN 2013-128F: COVENTRY (BELMONT FARMS), UNIT 8 (2/2/14)* - located at 2550 Georgetown Road. (Council District 2) **(EA Partners)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Department of Environmental Quality's approval of environmentally sensitive areas (Georgetown Aquifer).
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Denote: This property shall be developed in accordance with the approved final development plan.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Denote adjoining property zoning.
11. Complete easement information to the south of this unit.
12. Denote that there will be no access to this lot from Georgetown Road.

- f. PLAN 2013-131F: NEWMARKET PROPERTY, PHASE 1, UNIT D, LOTS 9, 29 & 30 (AMD) (2/13/14)* - located at 1321 Deer Haven Lane. (Council District 12) **(EA Partners)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

* - Denotes date by which Commission must either approve or disapprove request.

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Building Inspection's approval of landscaping.
 4. Addressing Office's approval of street names and addresses.
 5. Urban Forester's approval of tree protection area(s) and required street tree information.
 6. Resolve maintenance and access to proposed greenspace.
 7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
 8. Addition of exaction information to the approval of the Division of Planning.
 9. Certification of DP 2013-97 prior to certification and recordation of this final record plat.
 10. Review by Technical Committee prior to plan certification.
 11. Resolve buildable area on Lot 30.
- g. PLAN 2013-137F: CENTERPOINTE (AMD) (2/24/14)* - located at 100 West Main Street.
(Council District 3) **(Abbie Jones)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Addressing Office's approval of street names and addresses.
 4. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
 5. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
 6. Denote zoning in site statistics.
 7. Denote lot frontage for ground lot in site statistics.
 8. Denote private utility providers per Article 5-4(e) of the Land Subdivision Regulations.
 9. Correct Planning Commission certification.
 10. Addition of information per Article 5-4(d) of the Land Subdivision Regulations, as applicable.
 11. Complete information in notes #12 and #13 prior to plan certification.
 12. Review by Technical Committee prior to plan certification.
- h. DP 2013-97: NEWMARKET PROPERTY, UNIT 7 AND A PORTION OF UNIT 1 (AMD) (3/4/14)* - located at 1201, 1321 and a portion of 1501 Deer Haven Lane. (Council District 12) **(EA Partners)**

Note: The purpose of this amendment is to revise the number of single family lots.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Building Inspection's approval of landscaping and landscape buffers.
 4. Addressing Office's approval of street names and addresses.
 5. Urban Forester's approval of tree preservation plan.
 6. Division of Fire, Water Control Office's approval of the locations of fire hydrants.
 7. Provided the Planning Commission makes a finding that the plan complies with the EAMP.
 8. Resolve buildable area on Lot 30.
 9. Resolve maintenance and access to proposed greenspace.
- i. DP 2013-107: COLDSTREAM PARK, LOT 1 (2/24/14)* - located at 920 Citation Boulevard.
(Council District 2) **(Denham-Blythe)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
12. Correct plan title "Coldstream Park, Lot 1 (HS Distribution)."

* - Denotes date by which Commission must either approve or disapprove request.

13. Denote name and address of developer on plan.
14. Denote boundary of property with a solid line.
15. Clarify property location on vicinity map.
16. Remove hatching in paved parking areas.
17. Denote construction access location on plan.
18. Denote direction and location of cross-section for Citation Boulevard.
19. Denote 50' landscape buffer from conditional zoning restrictions on plan.
20. Dimension exterior of all buildings.
21. Denote required and provided parking in site statistics.
22. Denote 25' building setback from floodplain.
23. Denote date of floodplain information.
24. Denote proposed and existing easements on site.
25. Denote street frontage in site statistics.
26. Delete note #2.
27. Denote 100' building line setback from Citation Boulevard.
28. Addition of conditional zoning notes and restrictions.
29. Addition of all applicable notes governing storm water management to the approval of the Division of Engineering.
30. Review by Technical Committee prior to plan certification.

In conclusion, Mr. Sallee noted that the staff had received an affidavit of the required posting of a sign for PLAN 2013-117F: DAVID TUCKER, SR., ANN TUCKER & DAVID TUCKER, JR and for DP 2013-97: NEWMARKET PROPERTY, UNIT 7 AND A PORTION OF UNIT 1 (AMD), adding that the documentation received for these requests appeared to be in order. He also noted that the staff had previously distributed a memorandum for the EAMP Compliance Statement for DP 2013-97: NEWMARKET PROPERTY, UNIT 7 AND A PORTION OF UNIT 1 (AMD), adding that the Commission must make a finding that the plan complies with the EAMP. He indicated that that finding is noted on the last sentence of the memorandum.

Mr. Sallee said that the items identified on the Consent Agenda could be considered for conditional approval at this time by the Commission, unless there was a request for an item to be removed from consideration by a member of the Commission or the audience to permit discussion.

Consent Agenda Discussion – The Chair asked if anyone in the audience or on the Commission desired further discussion of any of the items listed on the Consent Agenda. Mr. Chris Jones, residing at 2372 Prescott Lane, was present, and he asked that DP 2013-107: COLDSTREAM PARK, LOT 1 be removed from the Consent Agenda to allow further discussion.

Ms. Elizabeth Booth asked that PLAN 2013-131F: NEWMARKET PROPERTY, PHASE 1, UNIT D, LOTS 9, 29 & 30 (AMD) and DP 2013-97: NEWMARKET PROPERTY, UNIT 7 AND A PORTION OF UNIT 1 (AMD) be removed from the Consent Agenda to allow further discussion.

The Chair noted that it had been requested that PLAN 2013-131F: NEWMARKET PROPERTY, PHASE 1, UNIT D, LOTS 9, 29 & 30 (AMD); DP 2013-97: NEWMARKET PROPERTY, UNIT 7 AND A PORTION OF UNIT 1 (AMD) and DP 2013-107: COLDSTREAM PARK, LOT 1 be heard by the full Commission.

Action - A motion was made by Mr. Berkley, seconded by Ms. Mundy and carried 9-0 (Blanton and Beatty absent) to approve the remaining items listed on the Consent Agenda, as recommended, removing PLAN 2013-131F: NEWMARKET PROPERTY, PHASE 1, UNIT D, LOTS 9, 29 & 30 (AMD); DP 2013-97: NEWMARKET PROPERTY, UNIT 7 AND A PORTION OF UNIT 1 (AMD) and DP 2013-107: COLDSTREAM PARK, LOT 1.

B. DISCUSSION ITEMS – Following requests for postponement, withdrawal and no discussion items, the remaining items will be considered.

The procedure for these hearings is as follows:

- Staff Report(s), including subcommittee reports (30 minute maximum)
- Petitioner's report(s) (30 minute maximum)
- Citizen Comments
 - (a) proponents (10 minute maximum OR 3 minutes each)
 - (b) objectors (30 minute maximum OR 3 minutes each)
- Rebuttal & Closing Statements
 - (a) petitioner's comments (5 minute maximum)
 - (b) citizen objectors (5 minute maximum)
 - (c) staff comments (5 minute maximum)
- Commission discusses and/or votes on the plan.

Note: Requests for additional time, stating the basis for the request, must be submitted to the staff no later than two days prior to the meeting. The Chair will announce his/her decision at the outset of the hearing.

1. FINAL SUBDIVISION PLANS

- a. PLAN 2013-126F: DOC FERRELL PROPERTY (AMD) (2/2/14)* - located at 1120 Manchester Street.
(Council District 2) **(Integrated Engineers)**

Note: The purpose of this amendment is to subdivide one lot into three lots.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Addition of utility easements as required by the utility companies.
7. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
8. Clarify direction of street cross-section for Manchester Street on plan face.
9. Addition of private utility information (per Art. 5-4(e) of the Land Subdivision Regulations).
10. Addition of past Board of Adjustment action on plan.
11. Provided the Planning Commission makes a finding on the use of an access easement.
12. Certification of minor amended final development plan prior to plan certification and recordation of final record plat.
13. Provided the Planning Commission grants a waiver to Article 6-6(b) of the Land Subdivision Regulations.

Staff Presentation – Directing the Commission's attention to the revised staff recommendation for PLAN 2013-126F: DOC FERRELL PROPERTY, Ms. Gallt noted that the staff did receive a revised submission on the amended final record plat on December 5th. She said that this property is located at 1120 Manchester Street, and the purpose of this amendment is to subdivide one lot into three lots. She then said that the property is located west of downtown Lexington, just past the railroad bridge, as well as adjacent to the railroad track, and an access easement into the property connecting to Manchester Street.

Ms. Gallt said that the Subdivision Committee had reviewed this request and recommended approval, subject to the conditions listed on today's agenda. She then said that, with the revised submission, the staff can now offer a revised recommendation for this plat to the Planning Commission.

The Staff Recommends **Approval**, subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Addition of utility easements as required by the utility companies.
7. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
- ~~8. Clarify direction of street cross-section for Manchester Street on plan face.~~
- ~~9. Addition of private utility information (per Art. 5-4(e) of the Land Subdivision Regulations).~~
- ~~10. Addition of past Board of Adjustment action on plan.~~
8. 11. Provided the Planning Commission makes a finding on the use of an access easement.
9. 12. Certification of minor amended final development plan prior to plan certification and recordation of final record plat.
10. 13. Provided the Planning Commission grants a waiver to Article 6-6(b) of the Land Subdivision Regulations.

Ms. Gallt briefly explained the list of conditions, and said that conditions #1 through #7 are the standard sign-off requirements from the different divisions of the LFUCG; and the remaining conditions are "clean-up" items. She directed the Commission's attention to condition #9, and explained that this condition will require the applicant to submit a minor amended development plan prior to this plan being certified and recorded. She added that without that minor amendment, the subdivision of this lot would result in a property line going through one of existing buildings that is being shown on a previous development plan. She said that the applicant did submit a minor amendment showing there are two separate buildings on this property and those buildings have been labeled "as-built."

* - Denotes date by which Commission must either approve or disapprove request.

Ms. Gallt concluded by saying that the Planning Commission will also need to make a finding that the use of the access easement is appropriate for this site, as well as grant a waiver to Article 6-6(b) of the Land Subdivision Regulations.

Findings for Use of Access Easement Presentation - Directing the Commission's attention to a rendering of this plat, Mr. Martin noted that this property is located at 1120 Manchester Street, and explained that there are railroad tracks adjacent to this site and that the railroad does cross over the existing access easement. He then directed the Commission's attention to the rendering for the minor amended development plan, and said that the staff requested the applicant to submit the minor amendment to ensure that there would be no conflict with the developed property, as it is proposed.

Mr. Martin presented the staff report for the findings for use of an access easement. He said that the property is being served by the existing access easement from Manchester Street; and since this property is zoned I-2, there is no frontage requirement. He then said that the staff believes the access easement is necessary and appropriate for this property for the following reasons:

1. Allowing the existing industrial development to be accessed only via an access easement is appropriate for the proposed development and is consistent with infill and redevelopment goals.
2. The property is subject to an approved final development plan; and the continued use of the existing access easement will not negatively impact public health and safety, consistent with the intent of the Land Subdivision Regulations.

Waiver Report Presentation - Mr. Martin said that the requested waiver pertains to the required provision of public sanitary sewer facilities to a subdivision prior to the recordation of a record plat. He then said that this is a fully developed piece of property that has existing sanitary sewer already provided. However, In speaking with the Division of Engineering, the Lexington-Fayette Urban County Government does not want to assume responsibility for the sewer line maintenance, repair or replacement. He said that the staff believes that it is reasonable for the sanitary sewer responsibility to be maintained by the commercial property owner; and a recommendation of approval for the requested waiver is appropriate, for the following reasons:

1. Granting the requested waiver will not adversely affect public health and safety, as the properties are currently adequately served by previously approved private sanitary sewers and shall continue to be served by the existing system.
2. Not granting the requested waiver would constitute an exceptional hardship by requiring the potential relocation and reconstruction of the existing lines before they could be accepted as public sanitary sewer lines.

Mr. Martin said that this recommendation is made subject to the following requirement:

- a. Prior to certification of the final record plat, denote private sewer easements and notes regarding maintenance and/or replacement of the sanitary sewer lines, to the approval of the Divisions of Engineering and Water Quality.

Representation – Steve Garland, Integrated Engineers, was present, representing the applicant. He said that they are in agreement with the staff's revised recommendations and requested approval.

Planning Commission Questions – Mr. Penn asked if this request is creating a new access easement to the third lot. Mr. Garland replied yes, and explained that the existing access easement was created in 1984, and they are creating a new access easement to the third lot to prevent that parcel from becoming land locked. Mr. Penn then asked if the access easement will be permanent. Mr. Garland said that was correct, and added that the access easement will be clear of all structures.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Action - A motion was made by Mr. Cravens, seconded by Mr. Brewer, and carried 9-0 (Blanton and Beatty absent) to approve PLAN 2013-126F: DOC FERRELL PROPERTY, subject to the revised conditions listed by the staff, to include accepting the finding on the use of an access easement and granting the waiver to Article 6-6(b) of the Land Subdivision Regulations, as presented.

Note: The next two items were heard simultaneously.

- b. PLAN 2013-131F: NEWMARKET PROPERTY, PHASE 1, UNIT D, LOTS 9, 29 & 30 (AMD) (2/13/14)* - located at 1321 Deer Haven Lane. (Council District 12) **(EA Partners)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.

* - Denotes date by which Commission must either approve or disapprove request.

5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Resolve maintenance and access to proposed greenspace.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Addition of exaction information to the approval of the Division of Planning.
9. Certification of DP 2013-97 prior to certification and recordation of this final record plat.
10. Review by Technical Committee prior to plan certification.
11. Resolve buildable area on Lot 30.

- c. DP 2013-97: NEWMARKET PROPERTY, UNIT 7 AND A PORTION OF UNIT 1 (AMD) (3/4/14)* - located at 1201, 1321 and a portion of 1501 Deer Haven Lane. (Council District 12) **(EA Partners)**

Note: The purpose of this amendment is to revise the number of single family lots.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Division of Fire, Water Control Office's approval of the locations of fire hydrants.
7. Provided the Planning Commission makes a finding that the plan complies with the EAMP.
8. Resolve buildable area on Lot 30.
9. Resolve maintenance and access to proposed greenspace.

Final Record Plat Presentation – Ms. Gallt directed the Commission's attention to the amended final record plat to record three lots for Newmarket Property, located at 1201, 1321 and a portion of 1501 Deer Haven Lane. She explained that this property is located in the Expansion Area, and the applicant has also submitted a revised final development plan on this property.

Ms. Gallt said that the Subdivision Committee had reviewed the Final Record Plat and recommended approval, subject to the conditions listed on today's agenda. She briefly explained the list of conditions, and said that conditions #1 through #5 are the standard sign-off requirements from the different divisions of the LFUCG; and the remaining conditions are "clean-up" items. She directed the Commission's attention to Lot 30 on the rendering, and said that condition #11 relates to the orientation of the proposed house and whether or not there is sufficient room on this lot to construct a house. She explained that there is an easement to the side of the property. The staff was concerned with how a house would be oriented and requested that the applicant submit a site plan to show the layout for Lot 30.

Development Plan Presentation – Mr. Martin presented the amended development plan for Newmarket Property, located at 1201, 1321 and a portion of 1501 Deer Haven Lane, and briefly oriented them to the overall area and to the nearby street system. He said that this request is amending the previous development plan that was approved by the Commission, and briefly explained the differences between the two development plans. He illustrated the differences in the lot layout and how the streets are designed. He noted that this proposal is showing the removal of the townhouses, as well as reducing the number of single family lots. Mr. Martin said that Deer Haven Lane is a rural road; and as part of the Expansion Area Master Plan, this road is protected by the Special Design Area designation. He explained that the Special Design Area restricts the area within 200 feet of the right-of-way to minimize the visual impact of the development and to retain the quality of this rural road. He then said that the applicant is proposing longer, deeper single family lots along Deer Haven Lane, which will help minimize the impact along the road.

Mr. Martin said that the Subdivision Committee had reviewed the amended development plan and recommended approval, subject to the conditions listed on today's agenda. He briefly explained the list of conditions, and said that conditions #1 through #6 are the standard sign-off requirements from the different divisions of the LFUCG; and the remaining items include two "resolve" issues. Directing the Commission's attention to the staff exhibit on the overhead projector, he said that the applicant will need to resolve the buildable area on Lot 30. He then said that the staff was concerned with the access easement restricting a house on this lot; and even with the design standards and side yard setback, the applicant has clearly demonstrated that Lot 30 is a buildable lot.

Mr. Martin said that that the staff was also concerned with the maintenance and access to the proposed greenspace along Deer Haven Lane. He explained that there is a 200' setback requirement in the Expansion Area Master Plan for Deer Haven Lane, and the applicant has indicated that they will be transferring the maintenance over to the homeowners' association. The applicant will need to add a note to the development plan to that effect. He said that there will be public access for the neighborhood through the public right-of-way.

* - Denotes date by which Commission must either approve or disapprove request.

Mr. Martin directed the Commission's attention to the memorandum previously distributed, and said that the proposed plan does decrease the number of single family units by 26, now proposing a total of only 36 single family lots in this unit. He then said that this plan results in a residential density of 2.03 dwelling units per acre, which is below the 3 to 6 units per acre requirements for the EAR-2 zone.

Mr. Martin said that the staff is recommending approval of the Final Record Plat, as well as the proposed changes to this development plan/preliminary subdivision plan. He then said that the staff believes that the revised development plan is still in compliance with the future land use, community design, and infrastructure elements of the EAMP, as per the previous Commission findings.

Planning Commission Questions - Ms. Plumlee said that, during the Subdivision Committee meeting, the Capacity Assurance Program had been discussed; and even though this request has been grandfathered, asked if that condition should be added to the list of recommendations. Mr. Martin said that the EAR-2 area is exempt from that requirement. Ms. Plumlee then asked if a note should be added to the development plan stating that this request is exempt from the Capacity Assurance Program requirement. Mr. Martin said that the Commission has that option if they choose to add that condition; but, for the record, this area is exempt from the Capacity Assurance Program. The Chair said that, in speaking with Charlie Martin with the Division of Water Quality, he has stated that the EAR-2 area is grandfathered in, and there would be no problem in acquiring documentation from their staff to that effect.

Mr. Sallee informed the Commission that the staff had received an affidavit of the required posting of a sign for DP 2013-97: NEWMARKET PROPERTY, UNIT 7 AND A PORTION OF UNIT 1 (AMD), adding that the documentation received for this sign posting appears to be in order.

Representation – Richard Murphy, attorney, was present, representing the Clark Family. He briefly explained that there is an approved development plan for this property that has been certified; and they are now requesting to reconfigure the original layout to reduce the number of single family units. He indicated that the units across from Stolen Horse Trace have been developed; and since this request is also a preliminary subdivision plan, once it is approved, permits can be obtained to install the sewer line that will serve these lots.

Mr. Murphy directed the Commission's attention to the final record plat, and explained that Lots 9, 29 and 30 do have sewer connection, but the lots between Lots 9 and 29 do not. He then said that they have a builder who is interested in purchasing these lots; so they are requesting that the Planning Commission approve the final record plat, which would then allow the lots to be platted and recorded.

Mr. Murphy said that the staff had illustrated the schematic for Lot 30, and it did show that this lot is a buildable lot. He then said that there is sufficient room to build their standard house plan that is being used throughout the Newmarket Property.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. Elizabeth Booth, residing at 1940 Deer Haven Lane (aka Walnut Hill-Chilesburg Road), was present. She said that she has lived in this area since 1993; and during that time, she and her husband have been very involved in the development and planning of this area. She added that they have attended countless Planning Commission and Council meetings, and they are very knowledgeable regarding the rules and guidelines that are outlined in the Expansion Area Master Plan. Ms. Booth said that she feels that before any decision is made on this parcel, it should be postponed, because the public was not able to access the proposed requests on the website. She then said that the Division of Planning website has both of these requests listed, but only the development plan can be viewed, not the final record plat.

Ms. Booth asked how many Commission members are familiar with the Expansion Area Master Plan. She said that the EAMP Manual has been her "Bible" since 1996, and the Lexington-Fayette Urban County Government had established the rules as to how this land would be developed. She asked that the Planning Commission enforce these guidelines at this time.

Ms. Booth explained that the EAMP lists five rural roads in Fayette County that are very sensitive, and these roads have been designated as Scenic Resource Roads. She then said that page 32 of the EAMP states that the purpose of this designation is to protect the area as a community resource, and there are special limitations imposed to protect these rural roads in order to protect the rural character of the area. Ms. Booth handed out pages 39 and 40 of the EAMP to the Commission members, and said that the overall intent of the master plan is to free developers from traditional zoning, which tends to produce monotonous subdivisions with similar housing types, density and size; thereby resulting in a neighborhood that lacks social, cultural or economic diversity. She then said that this proposal is the first development in front of the Commission that abuts a scenic rural road, and she believes this proposal is monotonous and does not provide the overall intent of the Expansion Area Master Plan.

Ms. Booth said that there is a required 200' setback that has been established along Deer Haven Lane, and the EAMP states that no development can take place within this setback. She directed the Commission's attention to Lot 25 and said that Lot 25 does encroach into the required 200-foot setback by 15 feet. She then said that these rules were developed in 1996. She asked the Planning Commission to make sure that the developer follows these rules to ensure that they are not setting a precedent for the future. She added that if this is not stopped today, it will create a huge problem in the future for this area. She requested that the Commission require the developer to place a transparent horse fence or a dry stone fence that is permitted within the Expansion Area. This fence would clearly define where the homeowner's property ends and the 200' setback area begins; otherwise there will be patios, playgrounds or other structures in the 200' setback. She said that this is already happening in other areas, and she does not want the same thing done in this area. Ms. Booth informed the Commission that construction has started on Lot 9, and she does not understand why. She said that developers are pushing their limits, and it is the Planning Commission's job to make sure the developer is following the rules.

Ms. Booth said that there is so much history in this area, and directly across from this high density proposal is an agricultural rural area. She presented the 1997 and 2002 development plan for this parcel and said that, over time, this same parcel has been presented to the Planning Commission. During there 16 years, there have been different members sitting on this board, not knowing the history; and each time the developer is presenting something different. This proposal needs to be reviewed to ensure that everything is correct and in compliance with the EAMP. She said that this proposal has changed from mansion-style homes to townhomes, and townhomes are not allowed in the Expansion Area. She asked why this is continually being brought to the Commission. She said that, in looking at the density on the 1997 rendering, the developers did not take into account the 200' greenspace area. She then said that the 2002 development plan and the 2004 final record plat show the outline of the property; but, once again, the 200' setback was not included. She said that, when the EAMP was adopted, guidelines were set in place, and the overall area for the Newmarket area was sketched out. She then said that the 200' setback was used to determine the density for the different areas within the EAR-2 zone and the Transfer of Development Rights was already used on this development to determine its density. She explained that if the maximum determined density is allocated to a parcel of land, and it can not be achieved due to the design requirements in Special Design Areas, then that density would be transferable to lands located within the same Expansion Area that is dedicated for a higher intensity. She then said that the EAMP states that they can not build on this land; and, not to place a hardship on the developer, the right to build on that land can be transferred elsewhere in the EAR-2 area. This is what the developer had done 16 years ago, and the EAMP clearly defines the different densities that are allowed.

Ms. Booth said that, in 1994, this area started to develop, with the exception of 22 lots along Stolen Horse Trace and Polo Club Boulevard; then the economy started to slow down. Now, with new members on the Planning Commission, the developer has brought a request for approval that is different from the original. The difference is that the 200' setback is now being added to determine the density on this parcel. The Transfer of Development Rights was previously established for the entire Newmarket Property; the right to build was transferred years ago, and it can not be used again now. She said that originally this parcel proposed 22 lots; now they are proposing 24 lots, with one of those lots encroaching into the 200' setback. She then said that the developer is also adding 12 lots from Unit 7 and asked why these 12 lots are being added to this request. She believes that this is adding more density, which is wrong, especially since it is adjacent to the designated scenic rural road.

Ms. Booth concluded by requesting that the Planning Commission postpone this request to allow the public to have access to the drawings. She asked that the developer be required to install a fence along the 200' setback to protect the rural character of this area. She believes that these plans need to be denied because Lot 25 is encroaching into the 200' setback, plus the Transfer of Development Rights was already used in the beginning and can not be used again. She said that the Commission needs to take their time to research the Newmarket Properties and seriously consider these requests before approving them. She then said that this request does not follow the guidelines that are outlined in the EAMP, and the Commission should not make an error in approving these requests at this time. She ended by saying that the four-lane boulevard between Todds Road and the northern boundary of the Expansion Area 2B was required 16 years ago; but this area continues to develop with that connection, and further development should not be allowed.

Rebuttal – Mr. Murphy directed the Commission's attention to a schematic on the overhead projector. He said that the Commission had previously approved a development plan for this site, and it has been certified. He then said that this development plan has been modified over the years, but the Expansion Area Master Plan anticipated that developments will evolve over time. He said that they are approved to have 62 buildable lots that can be situated between Deer Haven Lane and Stolen Horse Trace, as well as on the other side of Stolen Horse Trace; plus, they are also approved to have townhouses along Stolen Horse Trace. He said that they are amending the development plan from 62 lots down to 36 lots, a 40% reduction from what was previously approved by the Commission. He then said that, now on the amended development plan, they are showing one row of detached houses between Stolen Horse Trace and Deer Haven Lane, rather than two rows of houses. The amended development plan places the houses further from the 200' setback, creating less impact on Deer Haven Lane. He said that they are not only observing the 200' setback; but they have deleted the second row of houses, placing the one row of remaining houses further from the road. He then said that they are proposing two units per acre, which

includes the setback area, and they believe with this current proposal they are too low in the density requirement. The EAR-2 zone requires 3 units per acre, so they had consulted the staff as to whether or not this is an extremely low density development for this area. The EAMP allows the density to be averaged, and the 200' setback was calculated into all of those averages. He said that by no means are they increasing the density; but they are decreasing the density on this unit, over what they are allowed to develop off of the approved development plan.

Mr. Murphy said that, as for the 200' setback, no buildings, structures or opaque fences are allowed; and they will continue to honor that requirement. However, as most developers have done in the past, they are allowed to extend the lot line back toward Deer Haven Lane, creating deeper lots. He said that they could be required to have a note that stated nothing can be done in this area; but they prefer to transfer this area to the homeowners' association, and they believe that their intent would be to keep it looking nice. He added that, a few years back, they did offer this land to the city to be a part of a greenway system; but for unknown reasons, the city rejected that offer, so they have placed the setback with the homeowners' association, who will maintain and keep it open as a scenic view shed. They are not required to, nor will they commit to installing a fence along the boundary. They believe that the future homeowners may want to see the scenic area, and using a solid fence will block the view from the road and the houses.

Mr. Murphy said that, as for Lot 25, the lot line does encroach into the setback area a few feet, but they are not allowed to build a house, place any type of structure or even install a fence in that encroachment. He then said that Lot 9 does have a house under construction. It has been fully permitted, and is being used as the subdivision's model display house, which is within their legal rights. He added that they have filed a display house minor plat with the Division of Planning; and, under the Ordinance, a display house can be built by a developer for display only. It can not be occupied or sold. This is allowed until the final record plat is approved. He said that normally attorneys are not involved in minor plats, but his client wants to make sure that everything is done correctly.

Mr. Murphy said that Polo Club Boulevard is being shown on the final record plat, and it is supposed to connect with Deer Haven Lane, but his client does not own the property on the other side of Deer Haven Lane. He then said that, many years ago, Polo Club Boulevard was not constructed. The property owners in this area voiced their concerns with no access to Hamburg Shopping Center, so his client used personal funds to connect Polo Club Boulevard with Man o' War Boulevard. He added that his clients did not have to spend their money; but to provide the necessary connection, they went ahead and constructed Polo Club Boulevard for their residents to have a good, safe and sufficient access to the Hamburg area. Mr. Murphy said that his client had spoken to the city about connecting Polo Club Boulevard, but the city declined their offers; therefore, his client made the decision to build that road that is there today.

Mr. Murphy said that he understands Ms. Booth's position, because they were there before all the development and the roadway interdiction occurred. He then said that they have responded to the neighborhood's concerns by reducing the number of townhouses and units. They are moving the houses further from Deer Haven Lane, and they have made the connection of Polo Club Boulevard to Man o' War Boulevard. They see no reason for this not to go forward. He added that they used the 200' setback in the density calculations, and now their problem will be building enough units to meet the density requirements of the EAR-2 zone.

Planning Commission Question – Mr. Penn said that there are a few places where the Transfer of Development Rights is used and asked if this is one of those places. Mr. Murphy replied negatively.

Staff Rebuttal – Mr. Martin said that the Commission approved a development plan for this property on January 16, 2013; and it was certified in July of this year. He explained that new and late files are put on the website, and both the final record plat and the development plan are listed. He said that the staff had tested the link during the meeting; and, apparently, to access the final record plat, the user needed permission. This may be a computer error, but the staff can not speak as to what had happened. He then said that the development plan is listed, and access to that submittal can be viewed. He noted that the final record plat does match the development plan, and not viewing the final record plat does not change the information on the development plan. The staff is concerned that the public could not view the submittals, but again they can not speak to the reasons this happened for Ms. Booth.

Planning Commission Questions – Mr. Brewer asked, with regard to the Transfer of Development Rights, if the staff is confident that the development plan on the overhead projector has the correct number of units per acre. Mr. Martin replied that the staff is confident with the number listed on the development plan; and, as Mr. Murphy had stated, the problem will be meeting the preferred density on this property.

Ms. Plumlee asked if the property owner could fence the rear of the lots. Mr. Martin replied that the property owner could fence the rear of the lots, but it would need to comply with the Ordinance. Ms. Plumlee said that it would be no different between a property owner or the developer installing the fence. Mr. Martin said that, as long as the fence complies with the Ordinance, it should be uniform. Ms. Plumlee asked if that would comply with the 200' setback and the requirement for the fence. Mr. Martin said that a fence would clearly define the 200' setback, but a fence is not

required; plus, some homeowners may or may not install a fence. He then said that the developer is allowed to subdivide the property into lots, and the setback only restricts what can happen in that space. Ms. Plumlee said that she is concerned with the homeowners using that space for items such as grills and slides. Mr. Martin said that that would be the option of the developer if he thought it would be beneficial to this development.

Mr. Penn said that the 200' setback is suppose to be a view shed. He asked if it is turned over to the homeowners' association, what prevents this area from staying overgrown with honeysuckle and other vegetation. Mr. Martin said that the setback itself is designed to give the feel of the view shed. The homeowners' association would have the right to maintain the property as they see fit, and make the decisions as to what would or would not be cut down. He then said that the Urban Forester would need to be consulted before any streets trees within the tree protection area are cut down. Mr. Penn said that the unintended consequence of the view shed is the possibility if the homeowners' association not maintaining the view shed. Mr. Martin replied affirmatively.

Mr. Sallee said that, to respond to Mr. Brewer's questions, looking at the development plan, the density does include almost all of the lotting as shown on the development plan with just a little more toward the bottom if the rendering. He then said that regarding the calculations, as noted in the staff's EAMP Compliance Report, the overall density for this unit is at 3.014 dwellings per acre, and this calculation includes the 200' setback area. He added that, just for the area being presented today, the density results are closer to 2.03 dwelling units per acre, but the density for this entire unit is in compliance.

Ms. Mundy said that the 200' setback is treated more like an easement and nothing can be built on it, but she asked if swings could be placed in the setback. Mr. Martin replied that the setback is very heavily restricted under the Ordinance, and no buildings or structures are allowed; and specific types of fences can be used. Ms. Mundy then asked if the view shed would be treated pretty much as an easement. Mr. Martin said that the staff would hesitate in saying that, because easements do have a specific purpose, but the setback area will be a highly restricted area.

The Chair said that the staff previously noted that a sign was posted on this property. Mr. Martin verified. He said that this request does require the posting of a sign and an affidavit to be submitted to the staff. The Chair said that the staff had apologized for the computer error on the website, and he understands that the website can be unfriendly to users. He asked if the staff has received any phones calls with regard to the computer error or in opposition to the plans. Mr. Martin replied that, to his knowledge, they had not.

Action - A motion was made by Mr. Cravens, seconded by Ms. Mundy, and carried 7-1 (Plumlee opposed; Blanton and Beatty absent) to approve PLAN 2013-131F: NEWMARKET PROPERTY, PHASE 1, UNIT D, LOTS 9, 29 & 30 (AMD), as recommended by the staff.

Action - A motion was made by Mr. Cravens, seconded by Ms. Mundy, and carried 7-1 (Plumlee opposed; Blanton and Beatty absent) to approve DP 2013-97: NEWMARKET PROPERTY, UNIT 7 AND A PORTION OF UNIT 1 (AMD), as presented by the staff, adding a 10th condition to read: "Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification."

- d. PLAN 2013-116F: THOROUGHBRED PROPERTIES, LLC (AMD) (3/9/14)* - located at 904 North Broadway.
(Council District 1) **(Palmer Engineering)**

Note: The I/R Planner has forwarded the following plan to the Planning Commission for consideration in order to facilitate its certification.

Note: The purpose of this amendment is to subdivide one lot into two lots. The Planning Commission originally approved this plan on October 10, 2013, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
9. Denote as a "Final Record Plat" in title block.
10. Denote site statistics, including zoning, street frontage and acreage.
11. Denote address for Lot 1.
12. Add cross-section for North Broadway.
13. Correct LFUCG engineer's certification.
14. Denote adjoining property zoning on plan.
15. Denote written scale.

* - Denotes date by which Commission must either approve or disapprove request.

16. Correct engineer's & surveyor's certification.
17. Addition of access easement maintenance responsibilities.
18. Remove building from plan.
19. Review by Technical Committee prior to plan certification.

Note: The applicant has requested a continued discussion regarding the Capacity Assurance Program (CAP) documentation required as a condition of the Commission's original approval. As there is no new construction proposed for this subdivision, the staff can agree to a revised set of conditions for this plat.

The Staff Recommends: **Approval**, subject to the original conditions, deleting conditions #8 & #19.

Staff Presentation – Mr. Emmons presented the amended final record plat for Thoroughbred Properties, LLC, located at 904 North Broadway. He explained that this request was submitted as a late file on September 25th; on October 10th the Planning Commission approved this plan, as part of the Consent Agenda; and then on October 30th the Technical Committee reviewed this request, also recommending approval.

Mr. Emmons said that this property is zoned B-1 & B-4, and the purpose of this amendment is to subdivide the property into two lots. He then said that the property is not being split along the zone line, but rather it is being split to maintain the physical features of the property. He noted that this property currently has one business operating out of two buildings, and the applicant wants to subdivide this property in order to sell the B-1 lot fronting on North Broadway.

Mr. Emmons said that the final record plat has been reviewed by the staff and is ready to be certified and recorded by the Fayette County Clerk. He then said that the applicant has requested that this plat be placed on today's agenda as a continued discussion regarding conditions #5 and #8. He explained that since this item was late filed, all standard conditions were added to the listed of conditions, as part of the Commission's original approval. After the Commission approval, this item was presented to the Technical Committee. It was determined that condition #5 was not necessary for this property, and the Committee recommended that it be deleted.

Mr. Emmons said that the purpose of this request is to only subdivide the property. There are no physical changes being made, and only the user is changing not the type of use. He then said that should the type of use change to anything other than retail, then documentation from the Division of Water Quality would be required. He directed the Commission's attention to the rendering and said that each of these buildings has its own independent tap-on to the sanitary sewer line. He explained that the front lot currently taps on to the sewer line that is within the right-of-way; but as for the rear lot, there is a new 20' sanitary sewer and utility easement that goes along with the existing sanitary sewer line. This line has been inspected and cleaned out, and will serve the rear lot. He said that the front lot is currently being used as retail sales and will continue to be used as retail sales after the property is subdivided. He then said that since there are no physical changes to the outside, and the only change is to the interior of the building, the staff believes that condition #8 is unnecessary and can be removed. He added that, should the type of use change to anything other than retail sales, then this property would be required to provide documentation from the Division of Water Quality.

Mr. Emmons concluded by saying that, since this request had been reviewed by the Technical Committee, condition #19 is no longer necessary. He added that the staff has reviewed the final record plat. He noted that all of the other listed conditions have been met, making this plan ready to be certified and recorded at the County Clerk's Office. He said that the staff is recommending approval of the applicant's request, subject to the original conditions, deleting conditions #5, #8 & #19.

Planning Commission Questions – The Chair asked for an explanation of the "Use of Records" statements on the evidence of the property from the Division of Water Quality. Mr. Saltee said that "Use of Record" shows the historical use of the property, in terms of sewage being generated. He then said that this is the benchmark and the key to the Capacity Assurance Programs to ensure that there no additional increases, flows or tap-ons that would govern the property in insufficient area. The Chair said that, in speaking with Charlie Martin (Division of Water Quality) he had stated that the property could be considered as being grandfathered into the program; however, a "Use of Records" statement should be provided. The Chair continued, noting that Acting-Commissioner Martin also said that the Division of Water Quality would have no problem approving this request with that statement attached. Mr. Emmons said that that is not the information that was given to the staff, which is why this item was presented to the Commission.

Representation – Greg Isaacs, Palmer Engineering, was present, representing the applicant. He said that they had spoken to the staff at the tap-on desk several times and he was never asked to show the "Use of Records" statement. He then said that, from the beginning, he had been asking the Division of Water Quality for documentation; and the staff's response was that if this property does not need sewer credits, then there is nothing to document. But if a new building is being constructed, or the use is changing, then documentation would be required for this property.

Planning Commission Discussion - The Chair said that the Planning Commission is on new ground and there is some uncertainty with this matter. He then said that the Commission is relying on what Mr. Martin said concerning this request. He then said that he was told that a property could be grandfathered in; but to assure the Commission of their actions down the road, a statement from the tap-on desk could be provided. He further said that Mr. Martin had stated that this type of documentation would be appropriate and would not be a problem to obtain from his staff. Mr. Isaacs said that if the Chair had spoken with Mr. Martin about this issue, then he was sure this could be addressed.

Ms. Plumlee said that the Commission needs some type of assurance on the capacity of a property especially should that property be developed down the road. Mr. Isaacs said that they understand that this is a new policy; and it is an issue among the different divisions, making sure that everything gets clarified. He indicated that this request seems to have gotten stuck in the middle of the different divisions.

The Chair said that the staff is recommending deleting conditions #5 & #19.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Action - A motion was made by Mr. Berkley, seconded by Mr. Cravens, to approve PLAN 2013-116F: THOROUGHbred PROPERTIES, LLC (AMD), subject to the original conditions, deleting conditions #5, #8 & #19.

Planning Commission Discussion - Mr. Penn said that, at some point, if documentation is not required, then the reason why it is not required should be presented to the Commission. He indicated that whether or not this condition should or should not be deleted should not be based upon the decision of a staff member or at a staff member's discretion at the tap-on desk, especially concerning infill projects. He added that if a request is an infill project, and the use is not changing, then a condition needs to be added to "Discuss the water quality;" and if the request is changing the type of use, then the standard condition needs to be "Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification."

The motion carried 9-0 (Blanton and Beatty absent).

2. DEVELOPMENT PLANS

- a. DP 2013-98: TURFLAND MALL (AMD) (2/2/14)* - located at 2033 Harrodsburg Road.
(Council District 11) **(EA Partners)**

Note: The purpose of this amendment is to add square footage and revise the parking area.

The Subdivision Committee Recommended: Approval, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Add building height in feet.
11. Correct wording in owner's certification.
12. Correct wording in Planning Commission's certification.
13. Addition of 2' contour lines.
14. Document compliance with tree canopy and interior landscaping requirements in Lot G site statistics.
15. Discuss access point proposed near signalized intersection.
16. Discuss a pedestrian facility along the arterial road (Harrodsburg Road).

Staff Presentation – Mr. Martin presented the amended development plan for a portion of the Turfland Mall property, located at 2033 Harrodsburg Road. He directed the Commission's attention to the rendering, and briefly oriented them to the overall area and to the nearby street system. He noted that the Planning Commission recently approved an outlot, at the corner of Lane Allen Road and Harrodsburg Road; and as part of that approval, a development plan was to be presented to the Commission for their approval. He said that the purpose of this current plan amendment is to add a restaurant that will be over 3,200 square feet and to revise the parking area to

* - Denotes date by which Commission must either approve or disapprove request.

allow 68 parking spaces. He noted that access to this site will be provided just inside the mall property near the signalized traffic light at the former mall's entrance.

Mr. Martin said that the Subdivision Committee reviewed this request and recommended approval, subject to the list of conditions on today's agenda. He briefly explained the list of conditions, and said that conditions #1 through #9 are the standard sign-off requirements from the different divisions of the LFUCG; and the remaining conditions are "clean-up" items. He said that there are still two important discussion items remaining, and the staff was concerned with the proposed access point being near the signalized intersection on Harrodsburg Road across from Springridge Drive. He explained that there was an access drive that ran the length of the mall property, and the access point near the signalized light has since been closed. The applicant is proposing an opening just inside the mall property that will lead into their property, as well as a second access point at the rear of the site. He added that there will be two-way movement throughout the property. He directed the Commission's attention to the staff exhibit, and explained that at the Technical and Subdivision Committee meetings, there was a lot of discussion regarding the access point near Harrodsburg Road. It was determined that the preferred traffic improvement for this site would be that this access, at this location, should be closed. In speaking with the Division of Traffic Engineering, the staff agrees that the access is too close the public right-of-way; and with the potential traffic conflict, the proposed access point should be closed off.

Mr. Martin then said that, at both the Technical and Subdivision Committee meetings, the issue of providing a pedestrian facility along Harrodsburg Road was discussed; and in the past, sidewalks have not been approved on a State arterial road, such as Harrodsburg Road. However, sidewalks are now being requested to be installed on these roads. He said that the Commission has approved development plans on Nicholasville Road, as well as at the corner of Lane Allen Road and Harrodsburg Road for sidewalks to be installed. The staff believes it is appropriate for the Commission to request sidewalk improvements as these outlots are developed.

Mr. Martin said that the Subdivision Committee reviewed the applicant's request and recommended approval, subject to the conditions listed on today's agenda. He then said that it is the staff's recommendation that the proposed access near the signalized intersection be closed. As for the sidewalk improvements, the Division of Traffic Engineering and the State would need to be consulted to ensure that the location of the sidewalk was placed appropriately.

Planning Commission Questions - The Chair asked if it is the staff's preference to change condition #15 to read: "Close access point proposed near signalized intersection," and change condition #16 to read: "Resolve pedestrian facility along the arterial road (Harrodsburg Road)." Mr. Martin replied affirmatively.

Representation – Rory Kahly, EA Partners, was present with John Talbott, attorney, who was present on behalf of Turf Development. He said that they are agreeable to installing the sidewalk, but they would like it to be denoted that the sidewalk would be built in conjunction with the rest of the sidewalk on Harrodsburg Road. He said that, even though the corner lot will be installing a sidewalk, there are no other sidewalks on Harrodsburg Road until the residential areas. He then said that these two connections could not be linked together at this time, and suggested that a note be placed on the development plan or a bond be placed for the sidewalk improvements. Otherwise, the sidewalk would dead-end at the right-of-way strip in front of the other properties. He said that the applicant is agreeable to the sidewalk improvements, but they would like to be able to install the sidewalk from entrance to entrance.

Mr. Kahly said that the access point into this development is very important, not only to this project, but for the other properties along the frontage of Harrodsburg Road. He then said that there are two entrances into the mall, and there is a front service road connecting these two entrances together. He noted that this access point has existed for many years through a deeded easement, and the staff is now requesting to terminate the recorded access easement.

Mr. Talbott said that his client had purchased this property in 2012; and since that time, City Barbeque is the first project that has to come to fruition on this property. He said that they believe keeping the access open is critical for the three businesses along Harrodsburg Road, as well as for the rear of the mall as it begins to develop. He explained that funneling all of the traffic into the interior portion of the property is not the best plan for this site; and, at a minimum, the right turn toward the service road should be allowed. He said that he understands that there is a concern with traffic turning left out of the service road to gain access to Harrodsburg Road, but they can provide striping and signage to indicate a "right exit only."

Mr. Talbott explained that the service road was created when Walgreen's, O' Charley's and Verizon were developed, and to close the access to the service road would have a profound impact on these businesses. He then said that Walgreen's will be relocating; and without that access point, it would make it more difficult to re-lease that building in the future. He believes that striping the access point would be sufficient to direct the traffic into the mall property, around the median, and back onto Harrodsburg Road.

Mr. Kahly said that the rendering being presented to the Commission is a slight revision to what the Subdivision Committee had reviewed. They are now showing striping and arrows dedicating the right lane as "right turn only" into the service road, and the left lane as a straight through lane into the mall property. He added that, at the Subdivision Committee meeting, he was under the impression that the Subdivision Committee wanted these lanes controlled in this manner. He said that closing this access point to the service road was not mentioned to them until today, just prior to this meeting. He then said that they are trying to address the Subdivision Committee's comments with the dedication of these lanes coming off Harrodsburg Road.

Planning Commission Questions – Mr. Penn said that if this was the only lot being developed; then he could see keeping the access point; but when looking at the entire mall property, that access is near a signalized light. At a minimum, that access needs to be a "right turn only" to the service road. He then said that the traffic flow is not meant to come out so close to that light, and the only reason it works now is because there is not a business on that lot. He said that the signalized light will not be changing; and as this property develops with the different uses, he asked why the Commission would create a traffic situation, only to have it closed in the future. Mr. Penn said that, although Walgreen's is relocating, the entire piece of property needs to be reviewed as a whole, instead of looking at it as a single lot. He then said that a right turn may be alright, but a left turn will never work because it will create stacking.

Mr. Drake said that there is a similar development on Richmond Road, between St. Margaret Drive and St. Ann Drive, and asked if there have been any issues with that area. Mr. Martin said that the Division of Planning does not typically receive the complaints concerning the built environment, but the Division of Traffic Engineering does since they are charged with signage and other issues associated with right-of-way and accesses. He then said that if there are problems, it would most likely be directed to their staff.

Mr. Brewer said that he is trying to juggle the long term view, versus what he believed to be a "fiasco" with the way the access is configured right now. He then said that, in looking at the immediate situation, signage and stripes "will not cut it" and he asked if the applicant would be willing to provide additional space and barriers that would force a right turn only onto Harrodsburg Road and a right turn only out of the restaurant. Mr. Kahly directed the Commission's attention to the rendering and said that, instead of closing the service road, they can extend the center median, preventing the traffic from making a left turn out of the restaurant, and resulting in a right turn only off the service road.

Ms. Kaucher said that the Division of Traffic Engineering would be agreeable to closing the center median, preventing traffic from making the left turn out of this site and back out to Harrodsburg Road. She then said that, to address Mr. Drake's question, the staff is not aware of any traffic complaints for the businesses between St. Margaret Drive and St. Ann Drive, but that does not mean that there are none. The Chair said that it seems to him that the scenario on Richmond Road is much more open than this site.

Mr. Wilson said that he does not like this plan at all with the proposed access, and he can imagine the traffic jams that this proposal will create. He then said that, in addition, the vehicles that are parked adjacent to the drive aisle will be backing out into the traffic flow. He asked if it is possible to move the entrance to another location. Mr. Talbott said that he understands the Commission's concerns; but this is a deeded access easement, and he does not believe it can be closed. He then said that this is a legal entrance for the service road that the other lots use, and he believes that a right-in/right-out, as well as closing the median, would alleviate the Commission's concern. Mr. Wilson said that he appreciates the position that Mr. Talbott is in, and he understands the legal issues with the access easement; but this is a public safety concern, and he does not like it. Mr. Talbott said that, with all due respect, Turf Development owns Turfland Mall, but they do not own the outlots.

The Chair asked if the access easement is deeded, and should it be closed, if the access point on the opposite side be closed as well. Ms. Kaucher said that the access between these lots will not be closed, only the access opening to the drive aisle.

Mr. Brewer said that a right turn lane on Harrodsburg Road into the restaurant could stack pretty easily and asked if there is enough room to provide a right turn lane so it does not impede the traffic on Harrodsburg Road. Mr. Kahly said that there is already an existing right turn lane on Harrodsburg Road.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Planning Commission Discussion – Mr. Brewer asked if language could be added to address the right-turn only and to close the median.

Mr. Penn said that the applicant had requested that the sidewalk improvements be done in conjunction with the timing of the other sidewalk improvements. He said that he believes that, as part of Turfland Mall's long-term goal, or for no other reason other than the apartment complex, Harrodsburg Road needs sidewalk improvements. The Chair said that the Commission recently approved a request requiring sidewalk improvements at the corner of Lane

Allen Road and Harrodsburg Road, which could result in a sidewalk to nowhere. He then said that he has a problem with delaying the sidewalk improvements because 1) the sidewalks may never get built; and 2) by installing the sidewalks, it will be a much cleaner transition and will provide the impetus to make it happen on the other pieces as this area developed.

Mr. Sallee indicated that the staff would be agreeable to the following changes:

15. ~~Discuss~~ Revise access point proposed near signalized intersection to close existing median opening.

Mr. Sallee then said that, as for condition #16, the Commission may use one of the two following changes:

16. ~~Discuss~~ Provide a pedestrian facility along the arterial road (Harrodsburg Road); or
16. ~~Discuss~~ Resolve a pedestrian facility along the arterial road (Harrodsburg Road).

The Chair asked if additional language could be added to condition #15 to include striping. Mr. Sallee said that that could be part of the Division of Traffic Engineering's approval under condition #2.

Mr. Brewer asked if the applicant was agreeable to the said changes. Mr. Kahly replied affirmatively.

Motion - A motion was made by Mr. Brewer to approve DP 2013-98: TURFLAND MALL (AMD), subject to the conditions as listed by the staff.

Discussion - Mr. Sallee asked for clarification on the language for condition #16 to confirm using the "resolve" or "provide" alternatives. The Chair said that the language shown on the overhead used the word "resolve." Mr. Brewer said that his motion was based upon using the word "resolve" and asked if that would address the Commission's concerns. He then asked if it is the staff's preference to use the word "provide." Mr. Sallee said that substituting the word "provide" will ensure that the sidewalk improvements will be constructed as the restaurant is built. Mr. Brewer said that to make sure that this will work for everyone involved; he would like to rescind the motion and make a new motion.

Mr. Brewer first asked if the applicant is agreeable to changing the wording to condition #16 to read: "Provide a pedestrian facility along the arterial road (Harrodsburg Road)." Mr. Brewer indicated that there is a difference of opinion between Mr. Kahly and Mr. Talbott in the audience, and said that if they are not voicing their concerns, then they are indicating their agreement by not answering.

Action - Mr. Brewer made a motion to approve DP 2013-98: TURFLAND MALL (AMD), subject to the conditions as listed by the staff, revising the following conditions to read:

15. Revise access point proposed near signalized intersection to close existing median opening.
16. Provide a pedestrian facility along the arterial road (Harrodsburg Road).

The motion was seconded by Mr. Drake, and carried 9-0 (Blanton and Beatty absent).

Note: Mr. Brewer departed the meeting.

- b. DP 2013-100: LEXINGTON MALL PROPERTY (SOUTHLAND CHRISTIAN CHURCH) (2/2/14)* - located at 2299, 2349 & 2401 Richmond Road. (Council District 5) **(Strand Associates)**

Note: The purpose of this amendment is to revise the use and building layout on Lot 8, add recorded easements on Lots 7 & 8 and to correct sidewalk dimensions.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Department of Environmental Quality's approval of environmentally sensitive areas.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
10. Correct plan title.
11. Denote name and address of developer.
12. Denote record plat designation.
13. Denote construction access location(s).
14. Denote height of building in feet.

* - Denotes date by which Commission must either approve or disapprove request.

15. Denote 25' floodplain setback.
16. Denote FEMA floodplain.
17. Correct reference to note #14 to note #13.
18. Resolve status of note #17 on this plan.

Staff Presentation – Directing the Commission's attention to the revised staff recommendation for Lexington Mall Property (Southland Christian Church), Ms. Gallt said that this is an amended final development plan for property located at 2299, 2349 & 2401 Richmond Road. She then said that the purpose of this amendment is to revise the use and building layout on Lot 8, add recorded easements on Lots 7 & 8 and to correct sidewalk dimensions. The property is located in a Planned Shopping Center (B-6P) zone.

Ms. Gallt said that the Subdivision Committee had recommended approval of the applicant's request, subject to the conditions listed on today's agenda. She then said that the staff had received a revised submission for this development plan on December 11th, which addressed several of the conditions identified last week by the Subdivision Committee. However, with the new submission, the parking surplus on the site had been reduced by three spaces. She said that the staff is recommending approval of the applicant's development plan, subject to the following revised requirements:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Department of Environmental Quality's approval of environmentally sensitive areas.
6. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
7. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
8. Division of Waste Management's approval of refuse collection locations.
9. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
- ~~10. Correct plan title.~~
- ~~11. Denote name and address of developer.~~
- ~~12. Denote record plat designation.~~
- ~~13. Denote construction access location(s).~~
- ~~10.~~ 14. Denote height of building in feet on Lot 7.
- ~~11.~~ 15. Denote 25' floodplain setback.
- ~~12.~~ 16. Resolve status of note #17 16 on this plan.
- ~~16. Denote FEMA floodplain.~~
- ~~17. Correct reference to note #14 to note #13.~~

Ms. Gallt briefly explained the list of conditions, and said that conditions #1 through #9 are the standard sign-off requirements from the different divisions of the LFUCG; and the remaining conditions are "clean-up" items.

Planning Commission Question – Mr. Drake asked where Lots 7 & 8 are located and what is being proposed for those lots. Ms. Gallt directed the Commission's attention to the rendered plan and oriented them to the layout of the proposed lots. She said that the type of use for Lot 7 has not been identified, but Lot 8 is being proposed as a restaurant with a retail use.

Staff Presentation (cont.) - Mr. Martin directed the Commission's attention to the rendered development plan, and said that condition #12 is a bit unusual and the staff wanted to make sure that everyone "was on the same page." He pointed out Lots 7 and 8 along Richmond Road, and said that there have been several modifications to the floodplain area on this property. He said that the staff wants the applicant to clarify note #16 on this plan, since it speaks to the floodplain area on this property. He said that, during the construction of the church, the applicant needed to store some dirt in a temporary staging area, and that was done with a minor amendment. The deadline to remove that dirt was December 1, 2013, resulting in note #16 on the development plan to be no longer applicable to this site. He said that the staff's concern with the placement of the dirt was due to the fact that it was being placed in a floodplain. However, since the applicant had filed a Conditional Letter of Map Revision, that floodplain has changed. He said that, to resolve condition #12, the staff would like the applicant to provide accurate information on the floodplain area for this property.

Planning Commission Questions - Mr. Drake asked the building height for Lot 7. Mr. Martin said that the applicant is showing the height for Lot 7 to be 21 feet; and, as for Lot 8, that information is not being shown. Mr. Drake then asked if what the Commission approves today would require the applicant to denote the height on the development plan. Mr. Martin replied affirmatively.

Representation – Sara Tuttle, Strand Associates, was present, representing the applicant of Lot 8. She said that they do not represent Lot 7, but Lot 7 was placed on the development plan in order to clean up and add the recorded easements that were not listed on the development plan. She noted that this item was eligible for the

Consent Agenda; but since they revised the development plan, it needed to be presented to the full Commission. She explained that the revision to the development plan included removing three parking spaces to provide some flexibility, should multiple dumpsters be needed for this site. Ms. Tuttle said that they are in agreement with the staff's revised recommendations and requested approval.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request. There was no response.

Action - A motion was made by Ms. Mundy, seconded by Mr. Wilson, and carried 8-0 (Blanton, Beatty and Brewer absent) to approve DP 2013-100: LEXINGTON MALL PROPERTY (SOUTHLAND CHRISTIAN CHURCH), subject to the revised conditions listed by the staff, as presented.

- C. PERFORMANCE BONDS AND LETTERS OF CREDIT** – Any bonds or letters of credit requiring Commission action will be considered at this time. The Division of Engineering will report at the meeting.

Action - A motion was made by Mr. Cravens, seconded by Ms. Plumlee, and carried 8-0 (Blanton, Beatty and Brewer absent) to approve the release and call of bonds as detailed in the memorandum dated December 12, 2013, from Barry Brock, Division of Engineering.

D. DISCUSSION ITEMS (continuation)

2. DEVELOPMENT PLANS (cont.)

- c. DP 2013-107: COLDSTREAM PARK, LOT 1 (2/24/14)* - located at 920 Citation Boulevard.
(Council District 2) **(Denham-Blythe)**

The Subdivision Committee Recommended: Approval, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers and floodplain information.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree preservation plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike & Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Greenspace Planner's approval of the treatment of greenways and greenspace.
9. Division of Fire, Water Control Office's approval of the locations of fire hydrants, fire department connections and fire service features.
10. Division of Waste Management's approval of refuse collection locations.
11. Documentation of Division of Water Quality's approval of the Capacity Assurance Program requirements, prior to plan certification.
12. Correct plan title "Coldstream Park, Lot 1 (HS Distribution)."
13. Denote name and address of developer on plan.
14. Denote boundary of property with a solid line.
15. Clarify property location on vicinity map.
16. Remove hatching in paved parking areas.
17. Denote construction access location on plan.
18. Denote direction and location of cross-section for Citation Boulevard.
19. Denote 50' landscape buffer from conditional zoning restrictions on plan.
20. Dimension exterior of all buildings.
21. Denote required and provided parking in site statistics.
22. Denote 25' building setback from floodplain.
23. Denote date of floodplain information.
24. Denote proposed and existing easements on site.
25. Denote street frontage in site statistics.
26. Delete note #2.
27. Denote 100' building line setback from Citation Boulevard.
28. Addition of conditional zoning notes and restrictions.
29. Addition of all applicable notes governing storm water management to the approval of the Division of Engineering.
30. Review by Technical Committee prior to plan certification.

Staff Presentation – Directing the Commission's attention to the rendering for Coldstream Park, Lot 1, Mr. Martin said that this is a development plan that is associated with the recent zone change for property located at 920 Citation Boulevard. He oriented the Commission to the surrounding area and street system, and said that the facility is over 72,000 square feet in size, and there will be associated parking at the front of the building. He then

* - Denotes date by which Commission must either approve or disapprove request.

said that there is a fully developed residential area on two sides of the property; and as part of the zone change, conditional zoning restrictions were added to provide a landscape screening to buffer the nearby neighborhoods from this development. He explained that there is a 100' setback to the south of the site, as well as existing tree stands throughout the site; and the proposed landscaping along Newtown Pike will include berms. He noted that this building will be used as a veterinarian supply center, and they will be leasing the site from the Lexington-Fayette Urban County Government.

Mr. Martin said that the Subdivision Committee reviewed this request and recommended approval, subject to the list of conditions on today's agenda. He said that there are a large number of conditions, one of which is that this item must be reviewed by the Technical Committee since it was submitted as a late file. He briefly explained the list of conditions, and said that conditions #1 through #11 are the standard sign-off requirements from the different divisions of the LFUCG; and the remaining conditions are "clean-up" items. He said that the staff is recommending approval of the applicant's request.

Planning Commission Questions – Mr. Penn said that the deadline for the Commission to take action on this development plan is February 24, 2014. He asked why this request was submitted as a late file, and why the Commission would want to hear this request before the Technical Committee has had the opportunity to review the request. Mr. Martin said that the applicant could explain their reasons why this request was submitted as a late file.

Representation – Katie Beard, engineer with Denham-Blythe, was present on behalf of the applicant. She explained that, as far as the number of conditions, they have cleaned up the development plan, resulting in 15 conditions remaining to be resolved. She said that the reason this was submitted as a late file plan was due to the developers having a target date for construction to begin in January, and they wanted to start the process as soon as possible. She said that they are in agreement with the staff's recommendations and requested approval.

Planning Commission Questions – Mr. Penn said that this is just one out of several plans that the Technical Committee should weigh in on before the Planning Commission takes action. He then said that it does not matter who owns the property; but rather how that property is developed, and what impact the development will have on the surrounding areas. He added that there are a lot of issues with this request and he wants someone to address those concerns. He said that he does not see the urgency in approving this request unless construction is set to begin in the next two weeks. He added that there are Commission meetings scheduled in January, and he believes that the Technical Committee should review this request first. Ms. Beard said that she does not know the date of the January meeting and the developer's targeted date was January 2, 2014; but now it has been pushed back to January 14, 2014.

Mr. King said that this is a unique situation and it is one of those very fast moving economic development actions where a prospective firm is bringing additional jobs and additional development to Lexington-Fayette County. He said that, with the competition with other communities, everyone is working very fast to turn around the decision at the corporate level. With that in mind, the applicant indicated their preference for this site, and accordingly, the Urban County Council initiated the zone change. In order to speed the process of the zone change, the Council gave the request two readings at their Council meeting. He then said that the neighbors who were present at the Planning Commission meeting were primarily concerned with the development plan, but at that time there was no development plan submitted with the zone change. Mr. King said that, from a technical standpoint, the staff is not concerned, but the timing of this development is critical. He then said that, for today, it is important to hear from the neighbors, to review the plan and see if there are any issues that need to be resolved or if any adjustments to the plan need to be made. This will allow the firm to move on and try to negotiate a contractual arrangement on the lease with the Lexington-Fayette Urban County Government in order to proceed without delay. He said that there is a very critical time line involved in the decision making. He then said that it was not the staff's preference not to have a development plan at the time this property was rezoned, and it was not the staff's preference that this request was submitted as a late file or not have the Technical Committee review this request first. However, there are safeguards as the lease must be vetted and approved by the Lexington-Fayette Urban County Council. It is important that everyone involved knows what the parameters will be and what is doable before negotiations move to the next step. Mr. King asked that the Commission hear the concerns from the audience member(s) and then consider this request so it can move onto the Council.

Audience Comment – Mr. Chris Jones, residing at 2372 Prescott Lane, was present. He noted that he lives in the Belmont Farm neighborhood, which is to the east of the subject site. He explained that, at the zone change hearing last month, the neighbors were very concerned with noise pollution that this facility will have during its operating hours. He said that, in looking at the plan rendering, the applicant has added a small tree row between the building and the property line; but he is concerned that it will not be sufficient, especially during the fall and winter seasons or even after the proposed building extension is completed in the future. He said that, if the building is widened, it would move closer to the tree row, which reduces the barrier between this facility and the nearby residential area. Mr. Jones said that, in looking at the rendering, the loading bays are shown at the front and rear of the building. He understands the reasons of having the loading bay along Citation Boulevard due to the direct access, but asked why they have a loading bay proposed at the rear of the building. This will only create

more noise pollution for the nearby neighborhood. He added that the applicant has added a barrier, but they are not providing sustainable coverage to drown out the noise that will be coming from this facility.

Mr. Jones said that they are concerned with how quickly the process is moving and reminded the Commission members that the zone change was pushed through without a development plan. Now the applicant is asking for this request to be approved before the Technical Committee has had time to review it. He added that other concerns include the placement of the air conditioning units and asked if that will be more noise pollution on the nearby residents. He also wanted to know how this request will impact the overall traffic on Citation Boulevard and if that will require an additional signalized light at this intersection. He said that they were told that the facility will operate until noon and after that time all shipping will stop; but they have not received that guarantee.

Mr. Jones said that there is a small parking lot proposed at the front; and they would like to know if the facility will be open to the public for retail sales, since it is allowable under the P-2 requirements. Lastly, he said that they are concerned with the placement and direction for the overall outdoor lights, especially at the rear of this site and he is wondering if there will be spillage into the nearby neighborhood.

Planning Commission Questions - Mr. Wilson asked if there are any neighborhood associations in this area. Mr. Jones said that he is part of the Belmont Farm Neighborhood Association. Mr. Wilson then asked if Mr. Jones was speaking on behalf of that neighborhood association. Mr. Jones replied affirmatively.

Mr. Drake asked what the employment and investment quantity and economic impact for this facility will be. Ms. Beard said that the only thing she can speak to is that there will be 50 employees at this facility. Mr. Drake then asked what type of products will be at this facility. Ms. Beard said that it will be a wide range of veterinarian supplies, and it will be a distribution site.

Then the Chair asked if Ms. Beard could respond to the concerns that were mentioned. Ms. Beard said that with regard to noise pollution, the front and rear truck traffic will stop at noon, but she is not in the position to guarantee that time. She added that the truck traffic will be limited to day-time hours. She then said that this building will be LEED (Leadership in Energy & Environmental Design) certified, which will help address some of the noise concerns and will create a "friendly neighbor" condition. She said that the only lights on site will be in the parking lot and at the truck docks. Those lights will be directed downward to meet the LEED requirements. Ms. Beard said that with the building being 9' lower than the nearby residence, the difference in the elevation will also help reduce the noise level.

Ms. Beard then said that there is a 50' landscape buffer between the property line and building; and as far as the proposed expansion of the building, there are building code restrictions that require a 60' buffer around the building. She added that the HVAC units will be placed on the roof top of the buildings with a 2' parapet around the units for screening. As for traffic, there will be turn lanes into the property to help with the incoming traffic from Citation Boulevard. She noted that there will be no retail sales at this facility; it will be used for the offices and distribution center only, adding that this is a very light industrial type use.

Planning Commission Questions – Ms. Plumlee asked if 70% winter coverage could be considered for the area along the property lines to help screen the building from the residents. Ms. Beard said that there are existing shrubs along the property line, but they could consider adding winter coverage.

The Chair asked for clarification on the reasons for the proposed building expansion. Ms. Beard explained that this development plan does show the proposed expansion, but she does not know the time line as to when this expansion could occur. She noted that the tenant had requested the expansion be shown on the plan just in case their business would need to expand in the future.

Staff Rebuttal Comment - Mr. Sallee said that, as the Commission may recall at their zoning hearing, the staff had recommended conditional zoning to maintain the largest trees along the boundary of the two subdivisions. He then said that there was not any requirement, as part of the conditional zoning, to augment the other plantings that are required between a P-2 zone and a residential zone. He explained that if this were a vacant piece of land, the Zoning Ordinance requires at least one tree every 40'; and the staff is confident that these trees stands will exceed that requirement. In addition, there is a requirement for either a double row 6' hedge to be provided; or, if that is not provided, then a 6' high fence, wall or earth mound must be installed to comply with the zone-to-zone screening requirements. This is a standard requirement under Article 18 of the Zoning Ordinance, and he added that no landscape variances have been granted on this property.

Discussion - The Chair asked how far back the berm is between the property line and the building. Mr. Sallee pointed out on the rendering the location of where the trees may be existing, as well as where the berms are being proposed on the property.

The Chair said that he understands that people believe this request was being fast moved. He then said that the Commission had granted the zone change on this property in November; and since that time, he is sure that a lot of things were done on this project. He added that Ms. Beard had indicated that the development plan has been revised from 30 conditions to 15 conditions, but it would have been very helpful for the Commission to see those changes on a much cleaner plan before moving forward with this request.

Mr. Drake said that he had been involved in locational decisions for businesses at different times, and he appreciates the sensitivity and the intensely competitive nature of the vetting that this project has experienced, as well as the urgency of the decisions.

Action - A motion was made by Mr. Drake, seconded by Mr. Cravens, and carried 8-0 (Blanton, Beatty and Brewer absent) to approve DP 2013-107: COLDSTREAM PARK, LOT 1, as recommended by the staff.

Staff Comment – Mr. King commented to Mr. Jones that the staff has the relevant information and he wanted to ensure him that this information will be added to the development plan. He then said that the staff will certainly continue to have discussions, because at some point this request will go in front of the Lexington-Fayette Urban County Council. He added that even though the shipping concerns are not part of the development plan, it may be part of the leasing requirements. Mr. King said that these discussions do not stop at the Planning Commission and the staff will continue to work on the neighbors' concerns as this plan is solidified.

VI. STAFF ITEMS – No such items were presented.

VII. AUDIENCE ITEMS – No such items were presented.

VIII. NEXT MEETING DATES

Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building)	December 18, 2013
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	December 19, 2013
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building)	January 9, 2014
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building).....	January 9, 2014
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	January 16, 2014

X. ADJOURNMENT - There being no further business, a motion was made to adjourn the meeting at 4:17 PM.

Mike Owens, Chair

Carla Blanton, Secretary